

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

10-CA-276082

Date Filed

04-23-2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Amazon.com Services, LLC		b. Tel. No. 888-892-7180
		c. Cell No.
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 975 Powder Plant Road Bessemer, AL 35022	e. Employer Representative Travis Maynard, Director of Operations	g. e-mail
		h. Number of workers employed Approx. 5000
i. Type of Establishment (factory, mine, wholesaler, etc.) Warehouse and Distribution Center	j. Identify principal product or service Shipment of goods and products	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2021, the above named employer violated the Act by terminating employee (b) (6), (b) (7)(C) for engaging in protected concerted activity and (b) (6), (b) (7)(C) support for and activities on behalf of the Union.

On or about (b) (6), (b) (7)(C) 2021, the above named employer violated the Act by disciplining and retaliating against employee (b) (6), (b) (7)(C) for engaging in protected concerted activity and because of (b) (6), (b) (7)(C) support for and activities on behalf of the Union and in order to discourage employees from engaging in protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Retail, Wholesale and Department Store Union

4a. Address (Street and number, city, state, and ZIP code) 1901 10th Avenue South Birmingham, AL 35205	4b. Tel. No. 205-322-7462
	4c. Cell No.
	4d. Fax No. 205-322-8447
	4e. e-mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

United Food and Commercial Workers, International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

George N. Davies

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.
205-870-9989

Office, if any, Cell No.

Fax No.

e-mail
gdavies@qcwdr.com

2 - 20th Street North, Suite 930, Birmingham, AL 35203

Address

Date 4/23/2021

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
401 W. Peachtree Street, NE
Suite 2201
Atlanta, GA 30308

Agency Website: www.nlr.gov
Telephone: (404)331-2896
Fax: (404)331-2858



Download
NLRB
Mobile App

April 23, 2021

Retail, Wholesale Department Store Union
1901 10th Ave South
Birmingham, AL 35205-2601

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Sir or Madam:

The charge that you filed in this case on April 23, 2021 has been docketed as case number 10-CA-276082. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney KURT BRANDNER whose telephone number is (470)343-7491. If this Board agent is not available, you may contact Supervisory Field Attorney MATTHEW TURNER whose telephone number is (470)343-7497.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text

messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

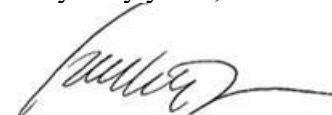
If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



SCOTT C. THOMPSON
Acting Regional Director

cc: George N. Davies
2-20th Street N, Suite 930
Birmingham, AL 35203



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Telephone: (404)331-2896
Fax: (404)331-2858



Download
NLRB
Mobile App

April 23, 2021

Travis Maynard, Director of Operations
Amazon.com Services LLC
975 Powder Plant Rd
Bessemer, AL 35022-5497

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Mr. Maynard:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney KURT BRANDNER whose telephone number is (470)343-7491. If this Board agent is not available, you may contact Supervisory Field Attorney MATTHEW TURNER whose telephone number is (470)343-7497.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

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If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



SCOTT C. THOMPSON
Acting Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC,
Charged Party

and

Retail, Wholesale Department Store Union,
Charging Party

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Charged Party: Amazon.com Services, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Geoffrey Rosenthal
MAILING ADDRESS: Morgan Lewis & Bockius LLP 1111 Pennsylvania Ave., NW, Washington, DC 20004
E-MAIL ADDRESS: geoffrey.rosenthal@morganlewis.com
OFFICE TELEPHONE NUMBER: 202-739-5318
CELL PHONE NUMBER: _____ FAX: 202-739-3001
SIGNATURE: /s/ Geoffrey Rosenthal
(Please sign in ink.)
DATE: April 26, 2021

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC,
Charged Party

and

Retail, Wholesale Department Store Union,
Charging Party

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Charged Party: Amazon.com Services, LLC

IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: David R. Broderdorf
MAILING ADDRESS: Morgan Lewis & Bockius LLP 1111 Pennsylvania Ave., NW, Washington, DC 20004
E-MAIL ADDRESS: david.broderdorf@morganlewis.com
OFFICE TELEPHONE NUMBER: 202-739-5817
CELL PHONE NUMBER: _____ FAX: 202-739-3001
SIGNATURE: _____
(Please sign in ink.)
DATE: April 26, 2021

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC,
Charged Party

and

Retail, Wholesale Department Store Union,
Charging Party

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Charged Party: Amazon.com Services, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Harry I. Johnson, III
MAILING ADDRESS: Morgan Lewis & Bockius LLP 2049 Century Park East, Ste 700, LA, CA 90067
E-MAIL ADDRESS: harry.johnson@morganlewis.com
OFFICE TELEPHONE NUMBER: 310-255-9005
CELL PHONE NUMBER: _____ FAX: 310-907-1001
SIGNATURE: /s/ Harry I. Johnson, III
(Please sign in ink.)
DATE: April 26, 2021

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC,
Charged Party

and

Retail, Wholesale Department Store Union,
Charging Party

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Charged Party: Amazon.com Services, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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(REPRESENTATIVE INFORMATION)

NAME: Francisco Guzman
MAILING ADDRESS: Morgan Lewis & Bockius LLP 101 Park Avenue, New York, NY 10178-0060
E-MAIL ADDRESS: francisco.guzman@morganlewis.com
OFFICE TELEPHONE NUMBER: 212-309-6798
CELL PHONE NUMBER: _____ FAX: 212-309-6001
SIGNATURE: /s/ Francisco Guzman
(Please sign in ink.)
DATE: April 26, 2021

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC

and

Retail, Wholesale and Department Store Union

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Retail, Wholesale and Department Store Union

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

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(REPRESENTATIVE INFORMATION)

NAME: Nicolas Miguel Stanojevich

MAILING ADDRESS: 2 20th Street N., Suite 930, Birmingham, AL 35203

E-MAIL ADDRESS: nstanojevich@qcwdr.com

OFFICE TELEPHONE NUMBER: 404-299-1211, ext. 121

CELL PHONE NUMBER: 706-296-1950 FAX: 4042991288

SIGNATURE: _____

(Please sign in ink.)

4-28-2021

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From: [George Davies](#)
To: [Brandner, Kurt](#)
Cc: [Nicolas Stanojevich](#)
Subject: RE: Affidavits for Amazon Case 10-CA-276082
Date: Thursday, April 29, 2021 3:01:55 PM
Attachments: [image001.png](#)

Sure Kurt, I will certainly attempt to get something set up on one of those days. Nick Stanojevich is working with me on this case so he is copied here as well. Thanks.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP

Two North Twentieth

2 – 20th Street North

Suite 930

Birmingham, AL 35203

(205) 510-9084 - (direct dial)

(205) 870-9989 – (main)

(888) 275-3575 - facsimile

email: gdavies@QCWDR.com



CONFIDENTIAL & PRIVILEGED

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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Thursday, April 29, 2021 1:47 PM
To: George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

I am available tomorrow AM and all day on Tuesday (5/4). Please let me know what works for you and (b) (6), (b) (7)(C)

If it is not possible to provide the affidavit on those days then please consider withdrawing that allegation and filing it in a separate charge. As I mentioned on Monday, the termination allegation is considered a high priority for the Region and an affidavit needs to be provided within a week of the filing of the charge. Please see [C Case manual Section 10052.9](#) covering nip-in-the-bud discharge cases and 10(j) relief

Thanks,
Kurt

From: George Davies <gdavies@qcwdr.com>
Sent: Thursday, April 29, 2021 2:11 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

I apologize but we will need to reschedule (b) (6), (b) (7)(C) affidavit. (b) (6) has had a conflict arise and cannot make the 2 pm central time call. We are still shooting for (b) (6), (b) (7)(C) affidavit for Monday afternoon, May 3. As soon as I can get (b) (6), (b) (7)(C) schedule confirmed, I will be back in touch. Again, my apologies.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP
Two North Twentieth
2 – 20th Street North
Suite 930
Birmingham, AL 35203
(205) 510-9084 - (direct dial)
(205) 870-9989 – (main)
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email: gdavies@QCWDR.com



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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Wednesday, April 28, 2021 1:28 PM
To: George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

I need the two alleged discriminatees to fill out designation of representative forms. You need to fill out a notice of appearance form for both. Please let me know if you have any questions.

Tomorrow at 2 PM Central is fine. I can do a three way call at that time if you give me both numbers or Mr. Stanojevich can call me on my cell.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: George Davies <gdavies@qcwdr.com>
Sent: Wednesday, April 28, 2021 12:27 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi Kurt,

Should we file a notice of designation of attorney or representative form (form 4943) rather than a notice of appearance? [REDACTED] can be available tomorrow at 2 pm central time. I

assume it will be by phone. Nick Stanojevich is going to cover for us as I have a conflict with that time. Let me know on the NOA or form 4943. Thanks.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP

Two North Twentieth

2 – 20th Street North

Suite 930

Birmingham, AL 35203

(205) 510-9084 - (direct dial)

(205) 870-9989 – (main)

(888) 275-3575 - facsimile

email: gdavies@QCWDR.com



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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>

Sent: Wednesday, April 28, 2021 9:17 AM

To: George Davies <gdavies@qcwdr.com>

Subject: RE: Affidavits for Amazon Case 10-CA-276082

Yes, tomorrow afternoon and Monday will be fine. Please let me know what times work and please efile a notice of appearance for both individuals.

Thanks,
Kurt

From: George Davies <gdavies@qcwdr.com>
Sent: Tuesday, April 27, 2021 6:49 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

If I can line up (b) (6), (b) (7)(C) for Thursday afternoon will you be available? (b) (6) said that (b) (6) might be available after 1 pm on Thursday. With respect to (b) (6), (b) (7)(C) (b) (6) will likely be available next Monday. Thanks.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP
Two North Twentieth
2 – 20th Street North
Suite 930
Birmingham, AL 35203
(205) 510-9084 - (direct dial)
(205) 870-9989 – (main)
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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>

Sent: Monday, April 26, 2021 12:21 PM

To: George Davies <gdavies@qcwdr.com>

Subject: Affidavits for Amazon Case 10-CA-276082

Hi George,

Like I said on the call, I'm available any time after 10 AM this week. Just let me know what works.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: [Nicolas Stanojevich](#)
To: [Brandner, Kurt](#)
Subject: RE: Affidavits for Amazon Case 10-CA-276082
Date: Monday, May 3, 2021 12:02:14 PM
Attachments: [image001.png](#)
[image002.png](#)

Thanks. My cell is 706-296-1950 and (b) (6), (b) (7)(C) cell number is (b) (6), (b) (7)(C)

Thanks,

Nick

Nicolas M. Stanojevich

cid:image002.png@01D0B310.0817A3C0



QUINN, CONNOR, WEAVER
DAVIES & ROUCO LLP
3516 Covington Highway
Decatur, GA 30032
404/299-1211 ext. 121
404/299-1288 (fax)
nstanojevich@qcwdr.com

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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Monday, May 3, 2021 12:00 PM
To: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Yes, that will be fine.

From: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Sent: Monday, May 3, 2021 11:58 AM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

Could we schedule the (b) (6), (b) (7)(C) affidavit for 4pm Central Time today?

Thanks,

Nick

Nicolas M. Stanojevich



QUINN, CONNOR, WEAVER
DAVIES & ROUCO LLP
3516 Covington Highway
Decatur, GA 30032
404/299-1211 ext. 121
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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Monday, May 3, 2021 10:29 AM
To: George Davies <gdavies@qcwdr.com>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

What time should I expect a call today the affidavit? Does 2 PM Central work?

From: George Davies <gdavies@qcwdr.com>
Sent: Thursday, April 29, 2021 2:11 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

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George

George N. Davies

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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>

Sent: Wednesday, April 28, 2021 1:28 PM

To: George Davies <gdavies@qcwdr.com>

Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

I need the two alleged discriminatees to fill out designation of representative forms. You need to fill

out a notice of appearance form for both. Please let me know if you have any questions.

Tomorrow at 2 PM Central is fine. I can do a three way call at that time if you give me both numbers or Mr. Stanojevich can call me on my cell.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

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Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi Kurt,

Should we file a notice of designation of attorney or representative form (form 4943) rather than a notice of appearance? (b) (6), (b) (7)(F) can be available tomorrow at 2 pm central time. I assume it will be by phone. Nick Stanojevich is going to cover for us as I have a conflict with that time. Let me know on the NOA or form 4943. Thanks.

George

George N. Davies

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Office: 470.343.7491
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From: [George Davies](#)
To: [Brandner, Kurt](#)
Cc: [Nicolas Stanojevich](#)
Subject: RE: Affidavits for Amazon Case 10-CA-276082
Date: Monday, May 3, 2021 10:33:37 AM
Attachments: [image001.png](#)

Hi Kurt,

I will leave the timing to Nick Stanojevich as (b) (6) is going to present (b) (6), (b) (7)(C) this afternoon. (b) (6), (b) (7)(C) and I am not sure when (b) (6) will be out. We ask for the region's consideration. Thanks.

George N. Davies

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Subject: Affidavits for Amazon Case 10-CA-276082

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Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: [Brandner, Kurt](#)
To: (b) (6), (b) (7)(C)
Subject: FW: Telephone Affidavit Case 10-CA-276082 (Amazon)
Date: Tuesday, May 11, 2021 11:33:00 AM
Attachments: (b) (6), (b) (7)(C) [Amazon Affidavit.pdf](#)

Please see email from last week below.

From: Brandner, Kurt
Sent: Monday, May 3, 2021 6:52 PM
To: (b) (6), (b) (7)(C)
Subject: Telephone Affidavit Case 10-CA-276082 (Amazon)

Hello (b) (6), (b) (7)(C)

Attached is your statement regarding the case in the above-captioned matter, rendered to me by telephone, which I have transcribed to the best of my ability as the attached "Confidential Witness Telephone Affidavit."

Please review this affidavit for its accuracy. I request that you initial any changes that you may make (including cross-outs and additions). Please also initial the bottom of each page of your statement to indicate that you have read that page, and sign and date the last page.

Upon completion of the foregoing, please promptly return your signed affidavit to me by May 7, 2021. You should return it by using the NLRB's E-Filing feature at www.nlr.gov or by email at kurt.brandner@nlrb.gov. Please also submit any supporting documentation which you may have, if applicable.

If you are not able to sign the document and scan the affidavit for e-filing, please scan and email the document to me at kurt.brandner@nlrb.gov.

If you are unable to scan the document, then please return the document to me via email, and state in your email:

1. Why you are unable to e-file the affidavit.
2. That you swear or affirm that the contents of the affidavit are true.
3. If the contents of the affidavit are not true, set forth the corrections, in detail, in your email.

Thank you very much for your anticipated cooperation. If you have any questions concerning this letter, please contact me at (470)343-7491.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
401 W. Peachtree Street, NE
Suite 2201
Atlanta, GA 30308

Agency Website: www.nlrb.gov
Telephone: (404)331-2896
Fax: (404)331-2858

Agent's Direct Dial: (470)343-7491

May 11, 2021

Geoffrey J. Rosenthal, ESQ., Morgan, Lewis & Bockius, LLP
Morgan, Lewis & Bockius LLP
2049 Century Park E., Ste. 700
Los Angeles, CA 90067-3109

David R. Broderdorf, Attorney
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541

Harry I. Johnson III, Attorney
Morgan, Lewis & Bockius LLP
2049 Century Park E., Ste. 700
Los Angeles, CA 90067-3109

Francisco Guzman, ESQ.
Morgan, Lewis & Bockius, LLP
101 Park Avenue
New York, NY 10178

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Mr. Rosenthal, Mr. Broderdorf, Mr. Johnson, Mr. Guzman:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before May 25, 2021 with regard to certain allegations in this case.

Allegations: The allegations for which I am seeking your evidence are as follows. The Charging Party Union alleges that the Employer violated Section 8(a)(1) and (3) of the Act by transferring (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C) position as a "water spider" to the less desirable position of "packer." The Charging Party alleges that supervisor (b) (6), (b) (7)(C) transferred (b) (6), (b) (7)(C) to the less desirable position in retaliation for (b) (6), (b) (7)(C) open support of the Union during the recent pre-election period.

Board Affidavits: I am requesting to take affidavits from supervisor (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) (last name unknown) and any other individuals you believe have

information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me by May 24, 2021 to schedule these affidavits.

Documents: Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. A position statement addressing the above-listed allegation.
2. The complete personnel and employment file(s) of (b) (6), (b) (7)(C) including past disciplinary actions and performance reviews (redacted of social security numbers and medical information).
3. All documents that the Employer relied upon in deciding to transfer (b) (6), (b) (7)(C) including all investigatory notes and internal communications that regard (b) (6), (b) (7)(C) transfer.
4. All documents including electronic mail and private messages, which relate or refer to the transfer of (b) (6), (b) (7)(C)
5. For all employees transferred from “water spider” to “packer” in the past year for job performance related issues, documents which establish the names, dates of hire, dates of transfer, reasons for transfer, prior disciplinary actions, and performance reviews.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by May 25, 2021. If you are willing to allow me to take affidavits, please contact me by May 24, 2021 to schedule a time to take affidavits. Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted.

Please contact me at your earliest convenience by telephone, (470)343-7491, or e-mail, kurt.brandner@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/Kurt Brandner

Kurt Brandner
Field Attorney

From: [Brandner, Kurt](#)
To: ["Nicolas Stanojevich"](#); [George Davies](#)
Subject: RE: Affidavits for Amazon Case 10-CA-276082
Date: Tuesday, June 8, 2021 12:53:00 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Nick and George,

I've discussed this case with Regional management and they are willing to grant an additional two weeks for a response to my previous questions regarding (b) (6), (b) (7)(C) availability. Please respond by June 22, 2021. If I have not heard from you by that time, this case will be dismissed. If you have any questions, please do not hesitate to contact me.

Thank you,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: Brandner, Kurt
Sent: Friday, May 28, 2021 1:08 PM
To: Nicolas Stanojevich <nstanojevich@qcwdr.com>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi Nick,

You did not respond to my question about (b) (6), (b) (7)(C). Please provide me with an update and response by close of business on June 1, 2021. I will consider recommending that the Region dismiss the charge due to a lack of cooperation if you do not respond by that time.

Thank you,
Kurt Brandner

From: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Sent: Wednesday, May 26, 2021 4:21 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Thanks, Kurt. Has the affidavit gone out to (b) (6), (b) (7)(C) via e-mail and regular mail?

Thanks,

Nick

Nicolas M. Stanojevich



QUINN, CONNOR, WEAVER
DAVIES & ROUCO LLP
3516 Covington Highway
Decatur, GA 30032
404/299-1211 ext. 121
404/299-1288 (fax)
nstanojevich@qcwdr.com

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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Wednesday, May 26, 2021 2:57 PM
To: Nicolas Stanojevich <nstanojevich@qcwdr.com>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Nick,

I still have not received the signed affidavit from (b) (6), (b) (7)(C). If it isn't e-filed by tomorrow at close of business, I will be recommending that the Region dismiss (b) (6), (b) (7)(C) portion of this charge due to a lack of cooperation.

Regarding (b) (6), (b) (7)(C) have you all reached out to (b) (6), (b) (7)(C) to see if (b) (6), (b) (7)(C) is still in the hospital or unavailable? It has been nearly a month since you've given me any kind of update on (b) (6), (b) (7)(C) status. Please let me know if (b) (6), (b) (7)(C) will be available sometime in the next week for an affidavit.

Thank you,
Kurt Brandner

From: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Sent: Friday, May 21, 2021 4:21 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

Thank you for re-sending (b) (6), (b) (7)(C) affidavit. I have reached out to (b) (6), (b) (7)(C) to confirm receipt and to get it signed and returned to you. I appreciate your patience on this and will get it to you as soon as possible.

We have no updates on (b) (6), (b) (7)(C) unfortunately, but we will keep you posted.

Thanks,

Nick

Nicolas M. Stanojevich



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DAVIES & ROUCO LLP
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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Wednesday, May 19, 2021 5:25 PM
To: Nicolas Stanojevich <nstanojevich@qcwdr.com>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi Nick,

I still have not received the signed affidavit from (b) (6), (b) (7)(C) I sent it to (b) (6), (b) (7)(C) a second time last Monday but have not heard back from (b) (6), (b) (7)(C) I need to get it by the end of this week. Please have (b) (6), (b) (7)(C) contact me directly if (b) (6), (b) (7)(C) has any questions.

I also wanted to follow up and see if (b) (6), (b) (7)(C) was well enough to provide an affidavit. Please let me know if you have any updates regarding (b) (6), (b) (7)(C) availability.

Thanks,
Kurt

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Sent: Monday, May 10, 2021 3:45 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Thanks for reaching out, Kurt. I just spoke with (b) (6), (b) (7)(C) and (b) (6) asks that you re-send (b) (6), (b) (7)(C) the affidavit. (b) (6), (b) (7)(C) e-mail address is (b) (6), (b) (7)(C).

I don't have any updates on (b) (6), (b) (7)(C) but I will pass them along as soon as I hear anything.

Thanks,

Nick

Nicolas M. Stanojevich



QUINN, CONNOR, WEAVER
DAVIES & ROUCO LLP
3516 Covington Highway
Decatur, GA 30032
404/299-1211 ext. 121
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nstanojevich@qcwdr.com

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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Monday, May 10, 2021 3:06 PM
To: Nicolas Stanojevich <nstanojevich@qcwdr.com>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hello Mr. Davies and Mr. Stanojevich,

I am writing because (b) (6), (b) (7)(C) has not returned (b) (6) signed affidavit. Please help (b) (6), (b) (7)(C) efile it as soon as (b) (6) has the opportunity to do so.

Please also let me know if there are any updates on (b) (6), (b) (7)(C). I hope (b) (6) has a speedy recovery.

Thanks,
Kurt

From: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Sent: Monday, May 3, 2021 11:58 AM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

Could we schedule the (b) (6), (b) (7)(C) affidavit for 4pm Central Time today?

Thanks,

Nick

Nicolas M. Stanojevich



QUINN, CONNOR, WEAVER
DAVIES & ROUCO LLP
3516 Covington Highway
Decatur, GA 30032
404/299-1211 ext. 121
404/299-1288 (fax)
nstanojevich@qcwdr.com

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strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Monday, May 3, 2021 10:29 AM
To: George Davies <gdavies@qcwdr.com>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

What time should I expect a call today the affidavit? Does 2 PM Central work?

From: George Davies <gdavies@qcwdr.com>
Sent: Thursday, April 29, 2021 2:11 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

I apologize but we will need to reschedule (b) (6), (b) (7)(C) affidavit. (b) (6) has had a conflict arise and cannot make the 2 pm central time call. We are still shooting for (b) (6), (b) (7)(C) affidavit for Monday afternoon, May 3. As soon as I can get (b) (6), (b) (7)(C) schedule confirmed, I will be back in touch. Again, my apologies.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP
Two North Twentieth
2 – 20th Street North
Suite 930
Birmingham, AL 35203
(205) 510-9084 - (direct dial)
(205) 870-9989 – (main)
(888) 275-3575 - facsimile
email: gdavies@QCWDR.com



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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Wednesday, April 28, 2021 1:28 PM
To: George Davies <gdavies@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi George,

I need the two alleged discriminatees to fill out designation of representative forms. You need to fill out a notice of appearance form for both. Please let me know if you have any questions.

Tomorrow at 2 PM Central is fine. I can do a three way call at that time if you give me both numbers or Mr. Stanojevich can call me on my cell.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

From: George Davies <gdavies@qcwdr.com>
Sent: Wednesday, April 28, 2021 12:27 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Cc: Nicolas Stanojevich <nstanojevich@qcwdr.com>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Hi Kurt,

Should we file a notice of designation of attorney or representative form (form 4943) rather than a notice of appearance? [REDACTED] can be available tomorrow at 2 pm central time. I

assume it will be by phone. Nick Stanojevich is going to cover for us as I have a conflict with that time. Let me know on the NOA or form 4943. Thanks.

George

George N. Davies

Quinn, Connor, Weaver, Davies & Rouco LLP

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2 – 20th Street North

Suite 930

Birmingham, AL 35203

(205) 510-9084 - (direct dial)

(205) 870-9989 – (main)

(888) 275-3575 - facsimile

email: gdavies@QCWDR.com



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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>

Sent: Wednesday, April 28, 2021 9:17 AM

To: George Davies <gdavies@qcwdr.com>

Subject: RE: Affidavits for Amazon Case 10-CA-276082

Yes, tomorrow afternoon and Monday will be fine. Please let me know what times work and please efile a notice of appearance for both individuals.

Thanks,
Kurt

From: George Davies <gdavies@qcwdr.com>
Sent: Tuesday, April 27, 2021 6:49 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Subject: RE: Affidavits for Amazon Case 10-CA-276082

Kurt,

If I can line up (b) (6), (b) (7)(C) for Thursday afternoon will you be available? (b) (6) said that (b) (6) might be available after 1 pm on Thursday. With respect to (b) (6), (b) (7)(C) (b) (6) will likely be available next Monday. Thanks.

George

George N. Davies

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Suite 930
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(205) 870-9989 – (main)
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From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>

Sent: Monday, April 26, 2021 12:21 PM

To: George Davies <gdavies@qcwdr.com>

Subject: Affidavits for Amazon Case 10-CA-276082

Hi George,

Like I said on the call, I'm available any time after 10 AM this week. Just let me know what works.

Thanks,

Kurt Brandner
Field Attorney
National Labor Relations Board
Region 10, Atlanta, GA
Office: 470.343.7491
Cell: 202.701.4635

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

AMAZON.COM SERVICES LLC
Employer
and
RETAIL, WHOLESALE AND DEPARTMENT STORE UNION

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Amazon.com Services LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME:	Brooke M. Nixon
MAILING ADDRESS:	2 Chase Corporate Drive, Suite 120, Birmingham, AL 35244
E-MAIL ADDRESS:	bnixon@constangy.com
OFFICE TELEPHONE NUMBER:	205-226-5466
CELL PHONE NUMBER:	205-229-2009
FAX:	205-323-7674
SIGNATURE:	<i>Brooke M. Nixon</i>
DATE:	5/19/21

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

AMAZON.COM SERVICES LLC
Employer
and
RETAIL, WHOLESALE AND DEPARTMENT STORE UNION

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Amazon.com Services LLC


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

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(REPRESENTATIVE INFORMATION)

NAME:	Thomas W. Scroggins		
MAILING ADDRESS:	2 Chase Corporate Drive, Suite 120, Birmingham, AL 35244		
E-MAIL ADDRESS:	tscroggins@constangy.com		
OFFICE TELEPHONE NUMBER:	205-226-5472		
CELL PHONE NUMBER:	205-534-0101	FAX:	205-323-7674
SIGNATURE:			
DATE:	(Please sign in ink.) May 19, 2021		

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

AMAZON.COM SERVICES LLC

Employer

and

RETAIL, WHOLESALE AND DEPARTMENT
STORE UNION

CASE 10-CA-276082

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Amazon.com Services LLC

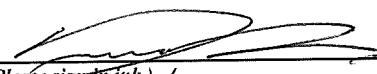
IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: Dean Kpere-Daibo
MAILING ADDRESS: 680 Craig Road, Suite 400, St. Louis, MO 63141
E-MAIL ADDRESS: dkdaibo@constangy.com
OFFICE TELEPHONE NUMBER: 314-338-3740
CELL PHONE NUMBER: 314-749-8612 FAX: 314-665-1707
SIGNATURE: 
DATE: 5/17/11
(Please sign in ink.)

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680 Craig Rd, Suite 400
St. Louis, MO 63141
Telephone: 314.338.3740
Facsimile: 314.665.1707

dkdaibo@constangy.com
314.925.7267

June 8, 2021

Kurt Brandner
NLRB Field Examiner
National Labor Relations Board, Region 10
401 W. Peachtree Street, NE
Suite 2201
Atlanta, Georgia 30308

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Mr. Brandner:

This correspondence shall constitute Amazon.com Services, LLC's ("Amazon" or "Employer") response to the Unfair Labor Practice Charge (10-CA-276082), filed by the United Food and Commercial Workers International Union on April 23, 2021 ("Charge"). In the Union's Charge and your letter requesting evidence, it is alleged that Amazon "transferred" (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C) position as a "Water Spider" to a less desirable position of "Packer" in retaliation of (b) (6), (b) (7)(C) alleged open support of the Union in violation of Sections 8(a)(1) and (3) of the National Labor Relations Act ("the Act"). These allegations are patently false and frivolous, and absent withdrawal must be dismissed. As will be fully explained in more detail below, no member of Amazon's management transferred (b) (6), (b) (7)(C) in retaliation in violation of the Act. Amazon has taken no adverse employment action against (b) (6), (b) (7)(C) in this respect, and Amazon is unaware of (b) (6), (b) (7)(C) alleged protected concerted activity.

In providing you this Statement of Position and counsels' work product, the Employer does not waive and expressly reserves its ability to supplement its position further, if warranted. Additionally, this Statement of Position, while believed to be accurate and correct, does not constitute an affidavit and is not intended to be used as evidence of any kind in any National Labor Relations Board or Court proceeding in connection with any unfair labor practice charges without the undersigned's written consent. Instead, this Statement of Position is intended solely for the purpose of the Board's investigation.

In *UNITE HERE, JD(ATL)* 31-10, Administrative Law Judge Keltner W. Locke expressly excluded and rejected from evidence the company's position statement to the Region as attorney work product. In doing so, he relied on *Kaiser Aluminum & Chemical Corp.*, 339 NLRB 829

June 8, 2021

Page 2

(2003), in which the Board held that a position statement submitted by the union's lawyer during the investigation of an unfair labor practice charge constituted attorney work product within the meaning of Rule 26(b)(3) of the Federal Rules of Civil Procedure. *See UNITE HERE (Boyd Tunica, Inc.)*, 357 NLRB No. 14, n. 2 (2011), where members Pierce, Hayes, and Becker adopted ALJ Locke's Order and found it necessary to pass upon the ALJ's Order Rulings in this regard. The Board also previously held that the attorney work product doctrine applied to unfair labor practice proceedings and that the position statement fell within the privilege. *See also Hogan Masonry, Inc.*, 314 NLRB 333, n.1 (1994); *Masillon Hospital Association d/b/a Masillon Community Hospital*, 282 NLRB 675, n.5 (1987); *Florida Steep Corp.*, 235 NLRB 1010, 1011-1012 (1978). Therefore, if the National Labor Relations Board seeks to use this correspondence as evidence of any kind in further proceedings or response to a Freedom of Information Act request, we request you obtain permission from the undersigned in advance.

I. PRELIMINARY STATEMENT

Amazon takes the allegations in the Union's Charge very seriously and has attempted to investigate the events surrounding the Union's Charge. The allegations set forth in the Union's Charge and the Region's request for information letter are conclusory, lack specificity, and do not provide a scintilla of competent evidence supporting the claims asserted in the Charge. If the Region could provide Amazon more detail concerning the Union's allegations, Amazon could respond to the Charge further. In the absence of additional specificity concerning said Charge, the Region must dismiss the Union's Charge if it is not otherwise withdrawn. Regardless, the Employer denies the allegations encompassed in the Charge and detailed in the Region's May 11, 2021, correspondence.

Amazon's evidence discussed in more detail below establishes that it did not violate Section 8(a)(1) and/or (3) of the Act concerning (b) (6), (b) (7)(C) or any other employee. First, Amazon will demonstrate that (b) (6), (b) (7)(C) did not transfer (b) (6), (b) (7)(C) as alleged. Second, the Union stipulated in the pre-election hearing that Process Assistants are not 2(11) statutory supervisors, and (b) (6), (b) (7)(C) was eligible to vote in the election. Third, the Union will be unable to establish that (b) (6), (b) (7)(C) engaged in any specific protected concerted activity and that Amazon and its members of management were aware of said activity. Fourth, the evidence will demonstrate that no member of Amazon's management transferred or took any adverse employment action against (b) (6), (b) (7)(C). Finally, the Union will be unable to establish a nexus between some alleged protected activity and members of Amazon's management assigning (b) (6), (b) (7)(C) as a Packer instead of a Water Spider. Instead, the evidence will show the Water Spider assignment within the Pack Singles department is not a permanent assignment for any Amazon associate. Other associates are assigned as a Water Spider, and this changes and fluctuates for all associates. The evidence will also demonstrate that (b) (6), (b) (7)(C) was occasionally assigned to the Water Spider position from January through April 2021. Thus, this evidence establishes, for the sake of argument, without conceding, that even if the Union can establish a *prima facie* case, Amazon has a legitimate non-discriminatory reason to assign (b) (6), (b) (7)(C) as a Packer and has treated (b) (6), (b) (7)(C) the same as similarly-situated individuals.

June 8, 2021

Page 3

Therefore, the evidence presented demonstrates Amazon did not violate Sections 8(a)(1) and (3) of the Act. Consequently, the Region should dismiss the Union's meritless Charge.

II. FACTUAL BACKGROUND

A. Amazon's Background

1. Amazon's Operations

Amazon is a retailer that sells products such as books, music, consumer electronics, clothing, sporting goods, toys, hardware, and food online and in brick-and-mortar stores. Amazon receives and sorts packages and ships goods from warehouses directly to consumers. The Amazon facility in question where (b) (6), (b) (7)(C) is employed, regularly called BHM1, is located in Bessmer, Alabama. It contains numerous departments which are part of its process to fulfill customer orders, such as the Sortation, Pick, and Pack, to name a few. Amazon refers to all of its hourly employees working in the facility as "Associates."

2. "Water Spider" is Not a Permanent Designated Assignment

Within each department in BHM1, there is a "Water Spider" assignment that is not a designated permanent assignment. It is considered an indirect role or "floater" assignment within a department. The associate serving as a Water Spider may fill in any station assigned by the Area Manager and is tasked with assisting other associates working at stations.¹ The Water Spider can be assigned to multiple stations during one shift based on the department's needs. There is no financial incentive associated with the Water Spider assignment, and it is not a promotion. No associate is permanently assigned or designated as a Water Spider within a department. Members of management attempt to assign different associates as the Water Spider based on need and experience level; however, no associate is permanently designated as a Water Spider.

From month to month, the hours that an associate spends in the Water Spider assignment fluctuate. Many times the fluctuation is due to the Area Manager's operational needs within the department. All associates who have been assigned to the Water Spider role in BHM1 have experienced a fluctuation of their Water Spider hours from December 2020 to April 2021.² It should be noted that most associates were not assigned any Water Spider hours during this timeframe. Ultimately, the change in assignments is based solely on operational business needs. For example, December and January are peak months for Amazon, and there is a clear trend of associates working more hours in the Water Spider role during peak due to order volume and operational need.

¹ An Area Manager is a front line manager who manages a specific area and directly manages the associates.

² A copy of Water Spider associate hours from November to May of 2021 is attached as Exhibit A.

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Within the Pack Singles department, the number of associates who worked as a Water Spider in March and April decreased significantly from the number of associates who worked as a Water Spider during peak in December of 2020. In December of 2020, thirty (30) associates worked as a Water Spider compared to seven (7) associates in March and eight (8) associates in April.³ Additionally, (b) (6), (b) (7)(C) is not the only associate who has experienced a fluctuation in their Water Spider hours. In fact, all of these associates have experienced fluctuation in their hours as a Water Spider due to operational. In addition, the vast majority of the Pack Single associates in April did not receive any hours as a Water Spider. There are many similar examples of associates' Water Spider hours fluctuating due to the department's operational needs, such as peak operating periods. However, all of the associates in Pack Singles are always Packers, and the vast majority of their hours worked are spent as a Packer.

3. Process Assistants Are Not 2(11) Supervisors and Do Not Possess the Authority to Transfer or Assign Other Hourly Employees to Different Departments.

Amazon employs other hourly employees who are classified as Process Assistants. These employees are hourly non-supervisory employees who do not possess the authority, nor do they engage in the necessary supervisory indicia, to be considered a supervisor in accordance with section 2(11) of the Act. More specifically, as it relates to the matter at hand, Process Assistants do not possess the authority to transfer an associate from one department within BHM1 to another. Only an Area Manager can transfer an associate to another department. (b) (6), (b) (7)(C) is not a supervisor or a member of management and cannot "transfer" (b) (6), (b) (7)(C) to another department. The Union is fully aware that Amazon's Process Assistants are not 2(11) Supervisors as the Union stipulated to their inclusion in the proposed bargaining unit on December 22, 2020, in the Pre-Election Hearing associated with the NLRB secret ballot election, which took place at BHM1 in March of 2021.⁴

B. (b) (6), (b) (7)(C) Employment

(b) (6), (b) (7)(C) began (b) (6), (b) (7)(C) employment with Amazon on (b) (6), (b) (7)(C). Amazon initially hired (b) (6), (b) (7)(C) as an hourly associate in the Pick Department; however, Amazon management assigned (b) (6), (b) (7)(C) to work in the Pack Singles department, where (b) (6), (b) (7)(C) has continued to work. While management assigned (b) (6), (b) (7)(C) to Pack Singles since (b) (6), (b) (7)(C) start date, Amazon did not permanently assign (b) (6), (b) (7)(C) to the Pack Singles department until (b) (6), (b) (7)(C) 2020. Once Amazon permanently assigned (b) (6), (b) (7)(C) to the Pack Singles department, (b) (6), (b) (7)(C) became (b) (6), (b) (7)(C). While (b) (6), (b) (7)(C) has remained in the Pack Singles department throughout (b) (6), (b) (7)(C) tenure with Amazon, (b) (6), (b) (7)(C) has reported to five (5) different Area Managers, including (b) (6), (b) (7)(C) current (b) (6), (b) (7)(C). The latter became (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2021. As indicated above, (b) (6), (b) (7)(C)

³ Copy of Pack Singles Department's Water Spider hours is attached as Exhibit B.

⁴ Copy of the Pre-Election Hearing Transcript in Case No. 10-RC-269250 is attached as Exhibit C, pg. 186.

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assigned (b) (6), (b) (7)(C) as the Water Spider within Pack Singles occasionally from January through March 2021, as (b) (6), (b) (7)(C) did with other employees. Nonetheless, (b) (6), (b) (7)(C) has served as a Packer in the Pack Singles department throughout (b) (6), (b) (7)(C) employment, and no transfer has occurred.

C. In April of 2021, (b) (6), (b) (7)(C) was on Leave, and (b) (6), (b) (7)(C) was Assigned as a Water Spider.

In April of 2021, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), was on a month-long leave. Accordingly, (b) (6), (b) (7)(C) did not assign (b) (6), (b) (7)(C) or any other Associate in the Pack Singles department during that time. Despite (b) (6), (b) (7)(C) absence, in April of 2021, (b) (6), (b) (7)(C) was, in fact, occasionally assigned to the Water Spider role in April of 2021 by the interim Area Manager(s) for the Pack Singles department. During (b) (6), (b) (7)(C) leave, (b) (6), (b) (7)(C) filled in for (b) (6), (b) (7)(C) and managed associates in the Pack Singles department, including determining which associates would serve as a Water Spider based on operational needs. (b) (6), (b) (7)(C) was assigned as a Water Spider for 9.05 hours in April based solely on operational need and their observations of (b) (6), (b) (7)(C) performance as a Water Spider.

III. LEGAL ANALYSIS

A. The Union Cannot Present Evidence to Establish their *Prima Facie* Case Because It Cannot Establish (b) (6), (b) (7)(C) Engaged in Protected Concerted Activity that Amazon was Aware of and that (b) (6), (b) (7)(C) Suffered An Adverse Employment Action.

The Union's Charge that Amazon "transferred" (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) alleged union activity should be dismissed. The Union cannot establish that Amazon "transferred" (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected concerted activity. In *Wright Line*, 251 NLRB 1083 (1980), *enf'd* 662 F.2d 899 (1st Cir.1981), *cert. denied* 455 U.S. 989, the Board announced the following causation test in all cases alleging violations of Sections 8(a)(1) and (3) turning on employer motivation. First, the General Counsel must prove by a preponderance of the evidence that an employee's protected activities were a motivating factor in the Employer's decision to take the adverse employment action. *Id.* at 1089; *see also Manno Electric, Inc.*, 321 NLRB 278, 280 (1996); *Sheet Metal Workers Int'l Assoc. Union*, 356 NLRB No. 65 (2010); *Willamette Industries*, 341 NLRB 560, 562 (2004); *Regal Heights Rehabilitation and Health Care Center*, 2010 WL 5177733 (NLRB Div. of Judges 2010). To sustain this initial burden, the General Counsel must establish the following elements: (1) the employee was engaged in protected concerted activity; (2) the employer had knowledge of that activity; (3) the Employer carried out adverse action; and (4) animus, link, or a nexus between the employee's protected concerted activity and the adverse employment action. The General Counsel has the burden to persuade that *anti-union sentiment was a substantial or motivating factor in the challenged employer decision*. *Manno Electric*, 321 NLRB at 280. (emphasis added).

Assuming the Union can present evidence that satisfies these elements, the burden shifts to the employer to demonstrate that the same action would have been taken even in the absence of alleged

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protected conduct. *Id*; See also *Regal Heights*, 2010 WL 5177733 at 10. In the instant case, the Union cannot present credible evidence to establish a *prima facie* case because there is no evidence that (b) (6), (b) (7)(C) engaged in protected concerted activity or that Amazon was aware of said activity. The Charge and Request for Information contain no description of (b) (6), (b) (7)(C) alleged protected concerted activity. Amazon is not aware of any such activity by (b) (6), (b) (7)(C). Additionally, the Union cannot establish credible evidence that (b) (6), (b) (7)(C) suffered any adverse employment action since no member of management transferred (b) (6), (b) (7)(C) to a less favorable position as alleged because a Water Spider is not a permanent position. Lastly, even assuming *arguendo* that the Union can present credible evidence to support its *prima facie* case, Amazon can establish that it has treated similarly-situated employees the same as (b) (6), (b) (7)(C) with respect to the assignment of the Water Spider position.

1. (b) (6), (b) (7)(C) Did Not Engage in Protected Activity, and Amazon was Not Aware of Said Alleged Activity.

The Region must dismiss the Union Charge because it is clear that there is insufficient evidence to meet any of the elements necessary to establish a violation of Section 8(a) (1) and (3) under the *Wright Line* test. Concerning the first and second elements – that the employees engaged in protected activity and Amazon knew of that activity – Amazon is unaware of any evidence that (b) (6), (b) (7)(C) engaged in any protected activity.

While the Union claims (b) (6), (b) (7)(C) was an “open union supporter,” this is not credible evidence to establish (b) (6), (b) (7)(C) engaged in protected concerted activity or that Amazon was aware of said alleged support. Although the Union had filed a petition for a secret ballot election, Amazon was unaware of who assisted the Union in filing the petition. Additionally, there is no evidence to establish that (b) (6), (b) (7)(C) played any role in filing said petition. Amazon was unaware of (b) (6), (b) (7)(C) position concerning the Union; the Region should not merely assume (b) (6), (b) (7)(C) engaged in protected concerted activity and/or that Amazon was aware of said activity simply because a petition was pending with the Region. Amazon’s complete lack of information and knowledge regarding (b) (6), (b) (7)(C) alleged protected activity demonstrates unequivocally that the first and second elements of the *Wright Line* test cannot be met.⁵ Therefore, the Union cannot establish its *prima facie* case.

2. (b) (6), (b) (7)(C) Did Not Suffer an Adverse Employment Action.

The Region must also dismiss the Union’s Charge because it cannot establish that (b) (6), (b) (7)(C) suffered an adverse employment action. To establish an adverse employment action, the Union and/or the General Counsel must show by a preponderance of the evidence that some legally

⁵ Amazon is willing to provide a supplemental response if the Region provides any details about (b) (6), (b) (7)(C) alleged protected concerted activity. Amazon’s current response is based on the scant details in the Charge and the Region’s May 11, 2021 letter. If the Region has additional information (such as which member of management was allegedly aware of the activity and allegedly retaliated against (b) (6), (b) (7)(C) Amazon requests the Region provides the information so it can respond.

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cognizable term or condition of employment has changed for the worse. *Northwest Iowa Telephone Co.*, 346 NLRB No. 47 (2006). Here, (b) (6), (b) (7)(C) has not suffered any adverse employment action. Neither (b) (6), (b) (7)(C) nor any member of management “transferred” (b) (6), (b) (7)(C) from Water Spider to Packer, as the Union has alleged. Initially, as a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is not a member of management who can transfer or issue an adverse employment action to an associate. Next, it is imperative to point out that (b) (6), (b) (7)(C) has worked in the Pack Singles department (b) (6), (b) (7)(C) entire employment with Amazon. While (b) (6), (b) (7)(C) has had different Area Managers during this time, (b) (6), (b) (7)(C) was not transferred.

Moreover, (b) (6), (b) (7)(C) including (b) (6), (b) (7)(C) current (b) (6), (b) (7)(C) have occasionally assigned (b) (6), (b) (7)(C) to the Water Spider role throughout (b) (6), (b) (7)(C) tenure, including from January to March 2021. Even in April of 2021, (b) (6), (b) (7)(C) was assigned as a Water Spider by two interim Area Managers who filled in for (b) (6), (b) (7)(C) during (b) (6), (b) (7)(C) leave. While there may be fluctuation concerning the frequency of (b) (6), (b) (7)(C) being assigned as a Water Spider, this in no way constitutes a change in the terms or conditions of (b) (6), (b) (7)(C) employment. (b) (6), (b) (7)(C) has not lost wages, overtime, or benefits in any way to support an allegation that (b) (6), (b) (7)(C) has suffered an adverse employment action. Serving as a Water Spider is not a promotion. At all times, (b) (6), (b) (7)(C) remained an associate in the Pack Singles department, and (b) (6), (b) (7)(C) working conditions have not changed for the worse. Whether serving as a Packer or a Water Spider, (b) (6), (b) (7)(C) performs the same or similar duties within the same department within BHM1 as (b) (6), (b) (7)(C) has throughout (b) (6), (b) (7)(C) employment with Amazon. The vast majority of (b) (6), (b) (7)(C) assignments have been at Packer since (b) (6), (b) (7)(C) began (b) (6), (b) (7)(C) employment with Amazon on (b) (6), (b) (7)(C). As a result, the Union’s Charge must fail as it cannot establish (b) (6), (b) (7)(C) has suffered an adverse employment action.

3. There is No Link or Nexus Between (b) (6), (b) (7)(C) Assignment and Some Alleged Protected Concerted Activity.

It is abundantly clear that the Union cannot present evidence to establish a link or nexus between (b) (6), (b) (7)(C) assignment as a Packer and some unknown alleged protected concerted activity. Even assuming for the sake of argument the Union could establish (b) (6), (b) (7)(C) engaged in protected concerted activity, Amazon knew about said activity, and an adverse employment action occurred, it still cannot present competent evidence to prove the required nexus. As indicated above, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was on medical leave from April until mid-May 2021. Consequently, (b) (6), (b) (7)(C) assigned associates, including (b) (6), (b) (7)(C) to the Water Spider role based on their observations of associates’ work and understanding of the operational needs of the Pack Singles department. (b) (6), (b) (7)(C), per the Union’s own pre-election stipulation, is not a member of management and did not “transfer” (b) (6), (b) (7)(C).⁶ There is not a scintilla of

⁶ The Union has twice now (once at the Tally of Ballots and once during the Post-Election Objections Hearing) tried to argue that their pre-election stipulation that Process Assistants are not statutory supervisors is somehow of no legal significance and that they are free to argue to the contrary even though Process Assistants were permitted to vote without being subject to challenge in the election earlier this year. The Hearing Officer rejected that argument during the Post-

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evidence to demonstrate that management made such operational decisions based on some unfounded, unproven alleged protected concerted activity.

Consequently, the Region should conclude that the Union cannot present sufficient competent evidence to establish a *prima facie* case in the matter at hand.

B. Amazon Has a Legitimate Non-Discriminatory Reason Concerning Assigning (b) (6), (b) (7)(C) to the Water Spider Role Occasionally.

Even assuming *arguendo*, but incorrectly, that the Union has met its *prima facie* burden under the *Wright Line* standard, Amazon has shown that it had a legitimate reason for occasionally assigning (b) (6), (b) (7)(C) to the Water Spider role. As fully explained above, the Water Spider role is not a permanent position. The Area Manager assigns associates to the Water Spider role based on the department's operational needs at the time. As a result, associates are not guaranteed to serve as the Water Spider, and the amount of time they may spend, if any, as a Water Spider may fluctuate from month to month based on the operational need.

To further support Amazon's legitimate non-discriminatory reason asserted, as discussed above, it is clear that Amazon treated (b) (6), (b) (7)(C) the same as similarly-situated individuals in BHM1, including associates within the Pack Singles department. A litany of associates, not including (b) (6), (b) (7)(C) experienced their hours as a Water Spider fluctuate from month to month from December of 2020 to April of 2021. Within the Pack Singles department, only eight (8) associates, including (b) (6), (b) (7)(C) worked as a Water Spider in April of 2021, compared to thirty (30) associates who worked as Water Spiders in December 2020 during Amazon's peak season. This evidence demonstrates that most associates in the Pack Singles department received zero (0) hours at Water Spider in April. It is also imperative to point out that each of the eight (8) associates assigned as a Water Spider in April experienced a fluctuation in those hours from March to April. Such a consistent pattern of assigning associates to the Water Spider role is based on objective operational needs and direct evidence that should completely rebut the Union's alleged claims that it has established its *prima facie* case.

Additionally, as discussed above, while (b) (6), (b) (7)(C) was out on leave, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) assigned associates to the Water Spider role based on their understanding of the department's operational objectives and associates' production and performance. It is reasonable and non-retaliatory to assign associates to this non-permanent floater

Objections Hearing. See a copy of the Post-Election Objections Hearing Transcript attached as Exhibit C, pg. 202-204. The Region should do so again here and prevent the Union from its third attempt at a "do-over" when it expressed in clear terms on the record during the Pre-Election Hearing that Process Assistants were eligible voters and should be included in the bargaining unit. See Exhibit B; see also *Caesars Tahoe*, 337 NLRB 1096, 1097 (2002) (holding the Board interprets the parties' intent when addressing challenged ballots in cases involving stipulated bargaining units, and where the intent is expressed in clear and unambiguous terms in the stipulation, the Board will simply enforce the agreed-upon appropriate bargaining unit).

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role based on management's observations of the associate's performance and operational needs within the department. Thus, even if the Union's initial burden can be met, which it cannot, Amazon has shown that it would have taken the same action in the absence of the alleged protected concerted activity.

IV. CONCLUSION

The evidence discussed establishes that Amazon in no way violated Sections 8(a)(1) and (3) of the Act concerning (b) (6), (b) (7)(C). The Union cannot present credible evidence to support or establish a *prima facie* case. It is patently untrue that (b) (6), (b) (7)(C) or any Amazon management member transferred (b) (6), (b) (7)(C) for engaging in some unknown protected concerted activity. Also, Amazon established a legitimate, non-discriminatory reason for how the Water Spider role is utilized within BHM1, including (b) (6), (b) (7)(C) Pack Singles department. As such, the Region should dismiss the Charge if the Union does not otherwise withdraw it.

We trust this correspondence satisfies your request. If you can provide additional information concerning this Charge or need additional information, please do not hesitate to contact the undersigned.

Best regards,



Dean Kpere-Daibo

Name		1-Mar	May	April	March	February	January	Decemeber	November	
		(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	42.53	56.05	47.02	103.31	44.51	28.68	3.94
				0	11.74	5.02	19.15	0.87	74.2	88.42
(b) (6), (b) (7)(C)				0	6.23	1.81	0	0	11.3	0
				0	9.05	45.75	56.25	88.5	96.82	61.18
				0	1.48	8.28	48.15	82.35	123.44	120.93
				0	0	1.16	0	0	0	0
			#N/A	0	0	0.43	0	0.45	0	0
			(b) (6), (b) (7)(C)	9.01	10.57	0	13.98	7.87	76.07	47.98
				18.37	5.8	0	0	0	0	7.03
				0	0	0	0	0	1.19	0
				0	0	0	0	0	10.58	0
				0	0	0	0	0	0.34	0
			(b) (6), (b) (7)(C)	0	0	0	0	1.8	2.62	0.65
				0	0	0	0	3.19	5.49	0
				0	0	0	0	0	0	2.12
				0	0	0	0	0	0.25	0
				0	0	0	10.08	0.11	0	0
				0	0	0	0	0	0.18	2.18
				0	0	0	0	0	0	2.01
			#N/A	0	0	0	0	0	1.36	5.12
			(b) (6), (b) (7)(C)	0	0	0	0	0	0.54	0
				0	0	0	0	2.51	2.36	0
				0	0	0	0	0.56	8.61	0
				0	0	0	0	0	0.71	0
			#N/A	0	0	0	0	0.37	7.88	0
			(b) (6), (b) (7)(C)	3.03	0	0	0	0	0	0
				0	0	0	0.88	0	0	0
				0	0	0	0	1.15	3.51	0
				0	0	0	0	3.59	3.44	5.89
			#N/A	0	0	0	0	0	1.87	0
			(b) (6), (b) (7)(C)	0	0	0	0	0	0	0.42
			#N/A	0	0	0	0	0	0	2.21
			(b) (6), (b) (7)(C)	0	0	0	0	0	0	1.26
				0	0	0	0	1.29	3.12	1.87
				0	0	0	0	0	1.21	0
				0	0	0	0	0	0	0.18
				0	0	0	0.34	1.74	2.67	0

<div><div></div><div></div><div></div><div></div><div></div><div></div><div></div></div>	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	0	0	0	0	0.8	2.23	3
			0	0	0	0	0	1.47	0
			0	0	0	0	0.43	1.18	0
			0	0	0	0	0	1.24	0
			0	0	0	0	0	0	0.27
			0	0	0	0	6.13	3.97	1.74

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD
REGION 10

In the Matter of:

Amazon.com Services LLC, Case No. 10-RC-269250

Employer,

and

Retail, Wholesale and
Department Store Union,

Petitioner.

Place: Atlanta, Georgia (via Zoom Videoconference)

Dates: December 22, 2020

Pages: 183 Through 199

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EXHIBIT B

<p style="text-align: right;">Page 201</p> <p>1 And we're standing there waiting to be helped, and they don't</p> <p>2 give us eye contact, or not available at all.</p> <p>3 Q Did that -- did that change during the Union campaign?</p> <p>4 Did you notice a change in that?</p> <p>5 A Oh, abso -- yes.</p> <p>6 Q Describe to the hearing officer how HR changed its</p> <p>7 approach. How -- how do you believe it changed in its</p> <p>8 approach?</p> <p>9 A Well, they're much nicer. You have them placed -- you</p> <p>10 have one on the third -- have third floor. You have front</p> <p>11 entrance. You have them on the first floor on -- in the area</p> <p>12 of outbound and inbound as well, so they're throughout the</p> <p>13 facility, and they're much nicer right now.</p> <p>14 Q Okay. Now do you recall any PAs making statements about</p> <p>15 what would happen if the Union was voted in?</p> <p>16 A Yes.</p> <p>17 Q What -- first of all, what was the name of the PA?</p> <p>18 A Her name was Twyla (phonetic).</p> <p>19 Q And was Twyla from --</p> <p>20 MR. BRODERDORF: Madam Hearing Officer, I have an</p> <p>21 objection to questions regarding process assistants who were</p> <p>22 eligible voters in the election, and so -- and were stipulated</p> <p>23 to as part of the bargaining unit by Petitioner. So I'm not</p> <p>24 understanding the questions about PA comments as it relates to</p> <p>25 the Union's objections against Amazon.</p>	<p style="text-align: right;">Page 203</p> <p>1 MR. ROUCO: That's right, they were stipped based on what</p> <p>2 we knew at the time. And we had this issue come up during the</p> <p>3 count of the election as to whether PAs, based on information</p> <p>4 that we've received subsequent to that stip, are actually 2(11)</p> <p>5 supervisors under the Act. And this argument was raised by Mr.</p> <p>6 Broderdorf. Ultimately, it didn't get resolved, right? But --</p> <p>7 but I don't think we're sort of foreclosed because of the stip</p> <p>8 to -- to, you know, litigate their supervisory status, unless</p> <p>9 you think otherwise.</p> <p>10 HEARING OFFICER MEYERS: I -- I don't think you're</p> <p>11 foreclosed, but I think you have to take a position. I don't</p> <p>12 think you can waffle back and forth and put in their evidence</p> <p>13 as agents but not take a position. So --</p> <p>14 MR. ROUCO: Well, I -- I -- well, I can tell you what my</p> <p>15 position is. I mean, I think they're supervisors, they're</p> <p>16 2(11) supervisors. But I recognize that back in November, the</p> <p>17 Union stippled to it based on the information it had available</p> <p>18 to it. But subsequent information, I think, leaves no doubt</p> <p>19 they're 2(11)s, that PAs are 2(11) supervisors.</p> <p>20 HEARING OFFICER MEYERS: And I don't know that that's</p> <p>21 encompassed within the objections that were filed, and I am</p> <p>22 limited to those objections.</p> <p>23 MR. ROUCO: Okay.</p> <p>24 HEARING OFFICER MEYERS: I will take it under advisement.</p> <p>25 I'll do a little research, figure this out. But right now,</p>
<p style="text-align: right;">Page 202</p> <p>1 MR. ROUCO: Well, I -- I -- I -- I'm sorry. If I may be</p> <p>2 heard, I -- I think if you let me develop this line of</p> <p>3 questioning, you'll see that it -- it really does connect back.</p> <p>4 Well, first of all, whether PAs -- I -- I understand PAs</p> <p>5 were -- were stippled in the unit, right? But we also took the</p> <p>6 position that the PAs are statutory supervisors, which is</p> <p>7 something that you can't -- you cannot stip a statutory</p> <p>8 supervisor into the unit. And -- but part of this line of</p> <p>9 questioning will relate back to what the PA told her they heard</p> <p>10 from other folks in management.</p> <p>11 MR. BRODERDORF: Well, now -- now we --</p> <p>12 HEARING OFFICER MEYERS: That's the argument.</p> <p>13 MR. BRODERDORF: -- now we have a hearsay issue, but --</p> <p>14 okay.</p> <p>15 HEARING OFFICER MEYERS: It -- yeah. I mean, you -- we're</p> <p>16 getting into hearsay unless you can establish that there -- I</p> <p>17 mean, are we going to litigate whether or not PAs are</p> <p>18 supervisors?</p> <p>19 MR. ROUCO: You know, I -- I don't know honestly, to tell</p> <p>20 you whether that's the case or not. I think -- I think you've</p> <p>21 heard -- you've already heard some testimony about PAs and what</p> <p>22 they do and what their functions are. I can go --</p> <p>23 HEARING OFFICER MEYERS: And I also recall that in the</p> <p>24 pre-election, you stipulated that they were to be included in</p> <p>25 the unit.</p>	<p style="text-align: right;">Page 204</p> <p>1 it's -- it's hearsay.</p> <p>2 MR. ROUCO: All right. So --</p> <p>3 MR. BRODERDORF: May I -- may I briefly respond?</p> <p>4 MR. ROUCO: Well, she ruled in your favor.</p> <p>5 HEARING OFFICER MEYERS: I --</p> <p>6 MR. BRODERDORF: I'm just --</p> <p>7 MR. ROUCO: But if you want to --</p> <p>8 HEARING OFFICER MEYERS: No.</p> <p>9 MR. ROUCO: -- keep arguing it, that's fine.</p> <p>10 HEARING OFFICER MEYERS: No, I mean, I don't understand</p> <p>11 what you need to respond to. I just ruled in your favor. I</p> <p>12 mean, we can drag this hearing out while everybody, you know,</p> <p>13 discusses things in perpetuity, or we can let my ruling stand.</p> <p>14 So we're going to let the ruling stand, and go on with the</p> <p>15 witness. Thank you.</p> <p>16 MR. BRODERDORF: Thank you.</p> <p>17 MR. ROUCO: Unless Mr. Broderdorf wants to convince you</p> <p>18 that you were wrong.</p> <p>19 HEARING OFFICER MEYERS: I don't -- I -- I don't think</p> <p>20 I've ever seen that before, so I -- I doubt that will happen.</p> <p>21 So let's go on with this witness so that we can finish this up</p> <p>22 today.</p> <p>23 MR. ROUCO: All right. All right.</p> <p>24 HEARING OFFICER MEYERS: Thank you.</p> <p>25 MR. ROUCO: I -- I'll move it along.</p>

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD
REGION 10

In the Matter of:

Amazon.com Services LLC, Case No. 10-RC-269250

Employer,

and

Retail, Wholesale and
Department Store Union,

Petitioner.

Place: Atlanta, Georgia (via Zoom Videoconference)

Dates: December 22, 2020

Pages: 183 Through 199

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EXHIBIT C

<p style="text-align: center;">UNITED STATES OF AMERICA</p> <p style="text-align: center;">BEFORE THE NATIONAL LABOR RELATIONS BOARD</p> <p style="text-align: center;">REGION 10</p> <p>In the Matter of:</p> <p>AMAZON.COM SERVICES LLC, Case No. 10-RC-269250</p> <p style="text-align: center;">Employer,</p> <p>and</p> <p>RETAIL, WHOLESALE AND</p> <p>DEPARTMENT STORE UNION,</p> <p style="text-align: center;">Petitioner.</p> <p>The above-entitled matter came on for hearing via Zoom videoconference, pursuant to notice, before KERSTIN MEYERS, Hearing Officer, at the National Labor Relations Board, Region 10, 233 Peachtree Street N.E., Harris Tower Suite 1000, Atlanta, Georgia 30303-1531, on Tuesday, December 22, 2020, 2:22 p.m.</p>	<p style="text-align: center;">Page 183</p> <p style="text-align: center;">PROCEEDINGS</p> <p>1 HEARING OFFICER MEYERS: We are reconvening the hearing in</p> <p>2 Amazon.com LLC 10-RC-269250.</p> <p>3 In an off-the-record discussion, the Petitioner has agreed</p> <p>4 to the inclusion of several classifications. I will read into</p> <p>5 the record the classifications that will be included per the</p> <p>6 position statement of the Employer. I believe this will</p> <p>7 resolve the outstanding issues.</p> <p>8 Okay, per that stipulation, the Petitioner has agreed that</p> <p>9 an appropriate unit for collective bargaining purposes within</p> <p>10 the meaning of section 9(b) of the Act should include all</p> <p>11 hourly full-time and regular part-time fulfillment associates;</p> <p>12 seasonal employees; lead fulfillment associates; process</p> <p>13 assistants; learning coordinators; learning trainers; amnesty</p> <p>14 trainers; pit trainers -- that's P-I-T trainers, capital P,</p> <p>15 capital I, capital T trainers; capital A, capital R, AR</p> <p>16 quarterbacks; interior handlers; hazardous waste coordinators;</p> <p>17 sortation -- sortation associates; capital W, capital H,</p> <p>18 capital S specialists; onsite medical representatives; data</p> <p>19 analysts; dock clerks; transportation associates; interim</p> <p>20 transportation associates; transportation operations management</p> <p>21 support specialists; field transportation leads; seasonal</p> <p>22 learning trainer; seasonal safety coordinator; seasonal process</p> <p>23 assistants; and warehouse associates (temporary).</p> <p>24 Excluded would be all truck drivers, office clerical</p> <p>25</p>
<p style="text-align: center;">Page 184</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 On behalf of the Employer:</p> <p>2 HARRY I. JOHNSON, ESQ.</p> <p>3 NICOLE A. BUFFALANO, ESQ.</p> <p>4 GEOFFREY J. ROSENTHAL, ESQ</p> <p>5 MORGAN, LEWIS & BOCKIUS LLP</p> <p>6 2049 Century Park E., Ste. 700</p> <p>7 Los Angeles, CA 90067-3109</p> <p>8 Tel. (310)255-9005</p> <p>9 Fax. (310)907-1001</p> <p>10 On behalf of the Petitioner/Union</p> <p>11 GEORGE N. DAVIES, ESQ.</p> <p>12 RICHARD P. ROUCO, ESQ.</p> <p>13 QUINN, CONNER, WEAVER, DAVIES AND ROUCO LLP</p> <p>14 2-20th St. N. Ste 930</p> <p>15 Birmingham, AL 35203-4014</p> <p>16 Tel. (205)870-9989</p> <p>17 Fax. (404)299-1288</p> <p>18 JOSH BREWER</p> <p>19 RETAIL, WHOLESALE, AND DEPARTMENT STORE, LOCAL 932</p> <p>20 1901 10th Avenue, South</p> <p>21 Birmingham, AL 35205-2601</p> <p>22 Tel. (205)322-7462</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 186</p> <p>1 employees, professional employees, managerial employees,</p> <p>2 engineering employees, maintenance employees, robotics</p> <p>3 employees, information technology employees, loss prevention</p> <p>4 specialists, guards, and supervisors as defined by the Act.</p> <p>5 Does the Petitioner so agree that those classification are</p> <p>6 included or excluded as stated?</p> <p>7 MR. DAVIES: Yes. We -- we agree.</p> <p>8 HEARING OFFICER MEYERS: All right. And have we -- was</p> <p>9 the Employer able to determine the payroll period ending dates?</p> <p>10 I believe it's Saturday --</p> <p>11 MR. JOHNSON: Yes, I can give you --</p> <p>12 HEARING OFFICER MEYERS: -- now that I look at this.</p> <p>13 MR. JOHNSON: Yes, Madam Hearing Officer. I can give you</p> <p>14 a list of that. Just so I'm clear on the record, we did</p> <p>15 include seasonal fulfillment associates, otherwise known as</p> <p>16 seasonal associate, as an included classification, correct?</p> <p>17 HEARING OFFICER MEYERS: Regular full-time associates,</p> <p>18 seasonal employees -- should that be seasonal fulfillment</p> <p>19 associates?</p> <p>20 MR. JOHNSON: Yes.</p> <p>21 HEARING OFFICER MEYERS: I guess I'd changed that. I'm</p> <p>22 sorry. So after hourly -- all hourly full-time and regular</p> <p>23 part-time fulfillments associates, that should be seasonal</p> <p>24 fulfillment associates?</p> <p>25 MR. JOHNSON: Correct.</p>

<p style="text-align: right;">Page 187</p> <p>1 MR. DAVIES: Madam Hearing Officer, we're -- we're in 2 agreement that temporary agency employees are not included in 3 the unit. 4 HEARING OFFICER MEYERS: Okay, I don't -- I don't believe 5 that that was covered by your petition, and I don't that the 6 Employer has -- has looked to include them, so that said, 7 the -- can the Employer so stipulates that temporary employees 8 employed by temporary services are not included in the unit? 9 MR. JOHNSON: So stipulated. I agree. 10 HEARING OFFICER MEYERS: Okay. And in addition, the 11 parties, in an off-the-record discussion, the Union -- or the 12 Petitioner has agreed that the appropriate standard for 13 determining eligibility will be the Davison-Paxon, so in 14 addition to the -- to the language previously read, the 15 appropriate unit language would also include a line that states 16 "also eligible to vote are all employees in the unit who have 17 worked an average of four hours or more per week during the 13 18 weeks immediately preceding the eligibility date for the 19 election." 20 Can the Petitioner so stipulate? 21 MR. DAVIES: Yes, we can so stipulate. 22 HEARING OFFICER MEYERS: And Mr. Johnson, would you so 23 stipulate that the Davison-Paxon formula is the correct 24 formula? 25 MR. JOHNSON: We can stipulate to the formula. One</p>	<p style="text-align: right;">Page 189</p> <p>1 excluded have been included or excluded, so we believe it is an 2 appropriate unit. 3 That -- just further clarification, we understand seasonal 4 fulfillments associates are in the unit per what the Hearing 5 Officer has -- has represented. 6 HEARING OFFICER MEYERS: Yes. So the only -- the only 7 remaining issue before me would be whether or not this is a 8 mail or manual election. 9 In an off-the-record discussion, the parties have had 10 extensive conversations with regards to the Board's recent 11 decision in Aspirus Keweenaw and Michigan Nurses Association, 12 379 NLRB No. 45, a November 9th, 2020 decision by the Board 13 with regards to mail ballot, at the Regional Director's 14 discretion to order mail-ballot election during the COVID-19 15 pandemic. The Employer has been directed to make an offer of 16 proof in writing. 17 In the off-the-record discussion, based on length of the 18 proffer, the Employer has asked for more time. I have agreed 19 to provide them until the -- did we say the 28th, Mr. Johnson? 20 MR. JOHNSON: Yes. Yes, Madam Hearing Officer. The 28th. 21 HEARING OFFICER MEYERS: Okay. They agreed to finalize 22 and submit all materials in their offer of proof by the 28th. 23 In order to submit any rebuttal evidence, the Petitioner will 24 be granted until the 31st. The parties understand that the due 25 dates for briefs will be January 7th -- there will be no</p>
<p style="text-align: right;">Page 188</p> <p>1 clarification is that if someone hasn't been there the full 13 2 weeks, you actually use how many weeks they have been there for 3 the average. 4 HEARING OFFICER MEYERS: Okay. And that -- that is part 5 of the Davison-Paxon formula. So that said, that's -- the -- 6 the language is what we've generally put in, but you are 7 correct. If they have not been there the full 13 weeks, it is 8 based on the period that they have been there. 9 So I believe that that resolves all of the bargaining unit 10 issues. The only issue that remains to be resolved is whether 11 or not this will be a mail-ballot or manual election. 12 MR. ROUCO: All right, Kristen, can I -- can I just 13 interrupt a second here, Madam Hearing Officer? I think -- I 14 assume that -- and I -- I'm not sure. I might have missed 15 this -- that the Employer also agrees that this is -- 16 stipulates or agrees that this is an appropriate unit, right? 17 Because the way it was read, it was that the -- the Union -- 18 the -- it's -- the Petitioner thinks it's an appropriate unit. 19 Does the Employer also agree that this is an appropriate unit? 20 HEARING OFFICER MEYERS: But -- Mr. Johnson, would the 21 Employer stipulate that the unit as read would be an 22 appropriate unit as enforced in the Employer's position 23 statement submitted in advance of this hearing? 24 MR. JOHNSON: Yes. I mean, in essence, all the job 25 classifications that we wanted in the unit and included or</p>	<p style="text-align: right;">Page 190</p> <p>1 further extensions -- and that the agreement to allow the 2 agreement to allow the offer of proof to be submitted after the 3 close of the hearing that I will leave open only for the 4 receipt of the offer of proof and the rebuttal offer of proof. 5 Otherwise, the hearing will be closed, and the briefs will be 6 due on the 7th. 7 I am going to allow the parties to make a statement on the 8 record and express their positions with regards to the offer of 9 proof and whether or not they present evidence, but you will 10 also be able to brief that. 11 With that said, I am going to ask the Employer if they 12 have a statement of position with regards to my decision to 13 accept only an offer of proof and deny your request to present 14 witness testimony with regards to whether or not this should be 15 a mail-ballot or a manual election -- 16 MR. JOHNSON: We do have such a state -- 17 HEARING OFFICER MEYERS: -- Mr. Johnson? 18 MR. JOHNSON: Thank you, Madam Hearing Officer. We do 19 have such a statement, but just as a matter of clarification, 20 it's close of business Pacific Time on the 28th, right? 5 p.m. 21 Pacific Time on the 28th? 22 HEARING OFFICER MEYERS: I -- yes, we can do -- we can do 23 close of -- let's do end of -- the end of -- of the day, 11:59 24 on the 28th. You can file that electronically in the case 25 file. I think --</p>

<p style="text-align: right;">Page 191</p> <p>1 MR. JOHNSON: All right.</p> <p>2 HEARING OFFICER MEYERS: I'm not sure how it's filed with</p> <p>3 the court reporting service. We can find that our off the</p> <p>4 record, but for purposes of -- make sure it's served on the</p> <p>5 Petitioner and filed with the region office in the case file</p> <p>6 through the ECF methods.</p> <p>7 MR. DAVIES: (Simultaneous speech)</p> <p>8 MR. JOHNSON: All right, 11:59 p.m., then.</p> <p>9 MR. DAVIES: Madam Hearing Officer, then I --</p> <p>10 HEARING OFFICER MEYERS: Eastern Standard Time.</p> <p>11 MR. JOHNSON: All right.</p> <p>12 HEARING OFFICER MEYERS: Eastern Standard Time.</p> <p>13 MR. DAVIES: Madam Hearing Officer, then I assume that we</p> <p>14 would have the same filing deadline protocol?</p> <p>15 HEARING OFFICER MEYERS: Deadline? Yes, sir. Yes, sir.</p> <p>16 The --</p> <p>17 MR. DAVIES: That'd be nice.</p> <p>18 HEARING OFFICER MEYERS: -- Petitioner also will have</p> <p>19 until midnight on the -- on the 31st to file their rebuttal</p> <p>20 offer of proof. That said --</p> <p>21 MR. DAVIES: Just before the ball drops.</p> <p>22 HEARING OFFICER MEYERS: That said, Mr. Johnson, would you</p> <p>23 like to make an -- I'm sorry.</p> <p>24 MR. DAVIES: Just before the ball drops.</p> <p>25 HEARING OFFICER MEYERS: Just before the -- just -- you</p>	<p style="text-align: right;">Page 193</p> <p>1 those arguments.</p> <p>2 HEARING OFFICER MEYERS: And does the Petitioner wish --</p> <p>3 wish to make a statement on the record --</p> <p>4 MR. ROUCO: Yes. I --</p> <p>5 HEARING OFFICER MEYERS: -- with regards to either --</p> <p>6 either the mail-ballot-manual as -- or a closing or legal</p> <p>7 argument, which would also be with regards to mail versus</p> <p>8 manual?</p> <p>9 MR. ROUCO: Well, we'll make -- I -- I'd like to make a</p> <p>10 brief statement on this issue, specifically on the question</p> <p>11 of -- the -- the objection that the Employer, Amazon, makes</p> <p>12 with respect to not being allowed to put on live witnesses.</p> <p>13 As I understand it, they're -- they are being allowed to</p> <p>14 submit declarations, which effectively becomes written</p> <p>15 testimony that they could submit as part of their offer of</p> <p>16 proof, which sort of expands the concept of what an offer of</p> <p>17 proof is, because by submitting written declarations, you're</p> <p>18 actually submitting foreign testimony.</p> <p>19 I don't think that they're entitled to have live witnesses</p> <p>20 or to have a full hearing on a question that's still</p> <p>21 nonlitigable. As -- as we noted, Aspirus -- I think it's</p> <p>22 footnote 3 of Aspirus -- the Board has not changed the rule</p> <p>23 that these are nonlitigable issues. And in the Aspirus</p> <p>24 discussion, the Board laid out the conditions under which a</p> <p>25 Regional Director would not be abusing their discretion in</p>
<p style="text-align: right;">Page 192</p> <p>1 can always submit it early.</p> <p>2 MR. DAVIES: Right. No, I'm going to be right up to the</p> <p>3 minute. Anyway, no, thank you. Thank you.</p> <p>4 HEARING OFFICER MEYERS: Mr. -- Mr. Johnson, would you</p> <p>5 like to make a statement on the record?</p> <p>6 MR. JOHNSON: Yes, I would. Thanks for the opportunity,</p> <p>7 Madam Hearing Officer.</p> <p>8 We appreciate and understand the Region's ruling on this.</p> <p>9 To be clear that we object, we would have prevented --</p> <p>10 preferred to present live witness testimony. We had three</p> <p>11 witnesses lined up with exhibits that would have provided a</p> <p>12 fulsome account of anything and everything we believe that</p> <p>13 would be needed to make a mail-versus-manual-ballot</p> <p>14 determination under the standards enunciated in Aspirus, and</p> <p>15 generally, the mail and manual ballot cases in GC memoranda.</p> <p>16 However, we're restricted to this offer of proof, so you</p> <p>17 know, again, we would object to the lack witnesses. We would</p> <p>18 object the time frame, in terms of how, you know, quick it was,</p> <p>19 but we understand the ruling. We do appreciate that we can at</p> <p>20 least have until Monday.</p> <p>21 In terms of all arguments, we would reserve all of them</p> <p>22 for the post-hearing brief, and -- and that includes Aspirus-</p> <p>23 based arguments, general mail-versus-manual-election arguments,</p> <p>24 and all of that. Just so the parties understand and the</p> <p>25 Hearing Officer understands, we're reserving all -- all of</p>	<p style="text-align: right;">Page 194</p> <p>1 ordering a mail-ballot election.</p> <p>2 Now, I know Amazon thinks it has special rules or that it</p> <p>3 can create itself a bubble or rent hotels or -- or do a bunch</p> <p>4 of other things in order to -- to contain the virus, but that's</p> <p>5 not the standard. The standard set out in Aspirus is, is there</p> <p>6 is 14 -- 14-day increasing number of cases, or is there more --</p> <p>7 is there a five percent positivity rate or higher in -- in the</p> <p>8 applicable jurisdiction, which in this case is Jefferson</p> <p>9 County.</p> <p>10 So we think, frankly, that the -- that there's enough</p> <p>11 evidence already in the record for the Regional Director to</p> <p>12 make her decision and to order a mail-ballot election if she</p> <p>13 finds that it's appropriate and that the conditions that are</p> <p>14 set out in the Aspirus decision are satisfied.</p> <p>15 MR. JOHNSON: Can I have 60 seconds to respond?</p> <p>16 HEARING OFFICER MEYERS: Were you finished, Mr. Rouco?</p> <p>17 MR. ROUCO: I'm done.</p> <p>18 HEARING OFFICER MEYERS: He's done.</p> <p>19 Yeah, Mr. Johnson, give a -- give us a rebuttal here.</p> <p>20 MR. JOHNSON: Right, I -- I don't want to belabor this too</p> <p>21 long, and -- and I think counsel for the Petitioner laid out</p> <p>22 their argument very ably. But just to expand, so the record's</p> <p>23 clear on argument, really, as to Aspirus, there actually are a</p> <p>24 number of litigable issues related to Aspirus standards.</p> <p>25 They're not set in such specific terms that they're completely</p>

<p style="text-align: right;">Page 195</p> <p>1 clear.</p> <p>2 We disagree that Aspirus provides for solely a political</p> <p>3 jurisdiction be the relevant geographic area. In fact, it says</p> <p>4 we're -- we're supposed to go off to the best available</p> <p>5 geographic statistical measure, and the Employer's free to</p> <p>6 argue a different geographical measure and present that data.</p> <p>7 So that is something that we'll be talking about in our brief,</p> <p>8 and it's completely proper to use it.</p> <p>9 HEARING OFFICER MEYERS: So with the understanding that</p> <p>10 Aspirus says if -- in the decision itself that one or more of</p> <p>11 these situations are present that will normally suggest the</p> <p>12 propriety of using mail ballots under the extraordinary</p> <p>13 circumstances presented by this pandemic, and one of those</p> <p>14 situations being -- two, either the 14-day trend and the number</p> <p>15 of new confirmed cases of COVID-19 in the county where the</p> <p>16 facility is locate -- is located is increasing, or the 14-day</p> <p>17 testing positivity rate in the county where the facility is</p> <p>18 located is five percent or higher.</p> <p>19 Again, as I've explained, the Regional Director is relying</p> <p>20 on that language and has required an offer of proof. We will</p> <p>21 look forward to receiving that no later than -- I should've</p> <p>22 written this all down -- the 28th -- oh, and receiving the</p> <p>23 Petitioner's no later than the 31st.</p> <p>24 Is there anything else that needs to be discussed before</p> <p>25 we close the record?</p>	<p style="text-align: right;">Page 197</p> <p>1 I'm --</p> <p>2 MR. JOHNSON: Yeah, the pay period end --</p> <p>3 HEARING OFFICER MEYERS: I don't need the pay date.</p> <p>4 MR. JOHNSON: Oh, okay. So the pay period that -- okay.</p> <p>5 So the last pay period ending date before today was December</p> <p>6 19th. The one after that will be December 26th. The one after</p> <p>7 that would --</p> <p>8 HEARING OFFICER MEYERS: And it's every Saturday</p> <p>9 thereafter, right?</p> <p>10 MR. JOHNSON: Roughly. I mean, I haven't calculated these</p> <p>11 out. The only times as we go in the record, so you'll have</p> <p>12 them.</p> <p>13 HEARING OFFICER MEYERS: Okay.</p> <p>14 MR. JOHNSON: The pay period -- there's a pay period</p> <p>15 ending January 2. There's a pay period ending January 9.</p> <p>16 There's a pay period ending January 16. There's a pay period</p> <p>17 ending January 23rd, and there's a pay period ending January</p> <p>18 30th. And the pay period generally ends on a Saturday. You</p> <p>19 are correct.</p> <p>20 HEARING OFFICER MEYERS: Okay. So we can -- we will</p> <p>21 deal -- we'll figure out the pay period immediately preceding</p> <p>22 the issuance of the decision and direction of election -- that</p> <p>23 would be in decision and direction of election.</p> <p>24 And again, the drop-dead date, no-extensions-to-be-made</p> <p>25 date for all briefs will be January 7th, 2021, no later than 12</p>
<p style="text-align: right;">Page 196</p> <p>1 MR. JOHNSON: I thought you wanted pay dates.</p> <p>2 HEARING OFFICER MEYERS: I'm sorry. Do I want --</p> <p>3 MR. JOHNSON: I thought you wanted pay --</p> <p>4 HEARING OFFICER MEYERS: What days?</p> <p>5 MR. JOHNSON: Yeah, I though the Hearing Officer --</p> <p>6 HEARING OFFICER MEYERS: Pay dates. Yes, oh, I'm sorry.</p> <p>7 You were supposed to get those for me, yes. The pay period for</p> <p>8 eligibility would be --</p> <p>9 MR. JOHNSON: Well, let me give you a number of pay</p> <p>10 periods, because we don't know when there'll be a decision and</p> <p>11 direction of election, just so you --</p> <p>12 HEARING OFFICER MEYERS: Right.</p> <p>13 MR. JOHNSON: -- have that. All right?</p> <p>14 HEARING OFFICER MEYERS: Well, does it end every Saturday?</p> <p>15 It's a one-week pay period, yes?</p> <p>16 MR. JOHNSON: It appears to, but the holidays, you know,</p> <p>17 knock a few dates around, so can I just tell you the pay</p> <p>18 period --</p> <p>19 HEARING OFFICER MEYERS: Okay.</p> <p>20 MR. JOHNSON: -- and I mean, what -- okay. So let's start</p> <p>21 with what would cover the pay period ending 12/26, the pay date</p> <p>22 would be 12/31. That's 2020.</p> <p>23 HEARING OFFICER MEYERS: But the --</p> <p>24 MR. JOHNSON: Then --</p> <p>25 HEARING OFFICER MEYERS: -- pay period ending date is what</p>	<p style="text-align: right;">Page 198</p> <p>1 p.m. (sic) midnight Eastern Standard Time. Those will be filed</p> <p>2 electronically through the electronic case filing system of the</p> <p>3 Board.</p> <p>4 Any other questions before I close the record? Nope.</p> <p>5 MR. JOHNSON: From us, not -- no -- for --</p> <p>6 HEARING OFFICER MEYERS: You -- anything --</p> <p>7 MR. DAVIES: Not from the --</p> <p>8 HEARING OFFICER MEYERS: -- from the Petitioner?</p> <p>9 MR. DAVIES: Not from the Petitioner.</p> <p>10 HEARING OFFICER MEYERS: All right. Thank you all for</p> <p>11 your cooperation throughout this. I appreciate it. And thank</p> <p>12 you to all of our muted and nonvideo participants. Your time</p> <p>13 and energies -- or the parties' times -- time and energy was</p> <p>14 well spent, and I appreciate your cooperation.</p> <p>15 And at this point, we will close the record in this</p> <p>16 hearing, subject to receipt of the two items, the Employer's</p> <p>17 offer of proof and the Petitioner's rebuttal on the dates</p> <p>18 provided. And the record is closed.</p> <p>19 (Whereupon, the hearing in the above-entitled matter was closed</p> <p>20 at 2:41 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

C E R T I F I C A T I O N

1
2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 10, Case Number
4 10-RC-2692, Amazon.com Services LLC and Retail, Wholesale and
5 Department Store Union, at the Region 10, 233 Peachtree Street,
6 N.E., Harris Tower Suite 1000, Atlanta, Georgia 30303-1531, on
7 December 21, 2020, on December 22, 2020, at 2:22 p.m. was held
8 according to the record, and that this is the original,
9 complete, and true and accurate transcript that has been
10 compared to the reporting or recording, accomplished at the
11 hearing, that the exhibit files have been checked for
12 completeness and no exhibits received in evidence or in the
13 rejected exhibit files are missing.
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17



DONNA BOARDMAN
Official Reporter

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23
24
25

From: [Henderson, Lisa Y.](#)
To: [Brandner, Kurt](#); [Turner, Matthew](#)
Subject: Re: Amazon
Date: Thursday, June 3, 2021 3:55:02 PM

Have a safe trip! Matt and I will talk.

Get [Outlook for iOS](#)

From: Brandner, Kurt <Kurt.Brandner@nlrb.gov>
Sent: Thursday, June 3, 2021 3:53:42 PM
To: Henderson, Lisa Y. <Lisa.Henderson@nlrb.gov>; Turner, Matthew <Matthew.Turner@nlrb.gov>
Subject: RE: Amazon

I'm flying to Denver tomorrow morning for a friend's wedding. I'll be back on Tuesday for a call.

From: Henderson, Lisa Y. <Lisa.Henderson@nlrb.gov>
Sent: Thursday, June 3, 2021 3:16 PM
To: Brandner, Kurt <Kurt.Brandner@nlrb.gov>; Turner, Matthew <Matthew.Turner@nlrb.gov>
Subject: Amazon

Let's talk tomorrow morning. I'm available any time.

Lisa Y. Henderson
Acting Regional Director
Region 10 – Atlanta
National Labor Relations Board
401 West Peachtree Street, N.W., Suite 472
Atlanta GA 30308
(470) 343-7485



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
401 W. Peachtree Street, NE
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Atlanta, GA 30308

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June 29, 2021

George N. Davies, Attorney
Nicolas Stanojevich, Attorney
Quinn, Connor, Weaver, Davies & Rouco LLP
2-20th Street N, Suite 930
Birmingham, AL 35203

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Mr. Davies and Mr. Stanojevich:

We have carefully considered your charge that Amazon.com Services LLC has violated the National Labor Relations Act and the Postal Reorganization Act.

Decision to Dismiss: Pursuant with Section 10054.1 of the National Labor Relations Board's Unfair Labor Practice Casehandling Manual, it is the responsibility of the charging party to comply with the Board agent's requests to, among other things, fully cooperate in the preparation of an affidavit by a Board agent and provide all relevant documents within its possession in a timely manner. In this case, you failed to timely present witnesses and failed to timely return signed witness affidavits in support of the charge allegations. The Board agent provided you several opportunities to present evidence and you failed to provide any response by the deadline. In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

If you wish to refile your charge allegations when you are able to fully cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **July 13, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than July 12, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before July 13, 2021**. The request may be filed electronically through the ***E-File Documents*** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after July 13, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



LISA Y. HENDERSON
Acting Regional Director

Enclosure

cc: Travis Maynard, Director of Operations
Amazon.com Services LLC
975 Powder Plant Rd
Bessemer, AL 35022-5497

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Birmingham, AL 35205-2601

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, (b) (6), (b) (6), (b) (6) can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 10
401 W. Peachtree Street, NE
Suite 2201
Atlanta, GA 30308

Agency Website: www.nlrb.gov
Telephone: (404)331-2896
Fax: (404)331-2858

July 1, 2021

George N. Davies, Attorney
Nicolas Stanojevich, Attorney
Quinn, Connor, Weaver, Davies & Rouco LLP
2-20th Street N, Suite 930
Birmingham, AL 35203

Re: Amazon.com Services, LLC
Case 10-CA-276082

Dear Mr. Davies and Mr. Stanojevich:

This is to inform you that I have revoked my dismissal letter of June 29, 2021, and that I have approved the Charging Party's request to withdraw the charge in the above matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "LH", is written over a horizontal line.

LISA Y. HENDERSON
Acting Regional Director

cc Travis Maynard, Director of Operations
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